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21st November 2022

Deputy Robert Troy
Dáil Éireann
Kildare Street
Dublin 2

E: robert.troy@oireachtas.ie / cc: pquestions@hse.ie

Re: PQ 53332/22

Question: To ask the Minister for Health the consideration that has been given to the impact that the new assisted decision-making legislation will have on adults with extreme complex needs, whose care is being provided in the UK and paid for by the HSE.

Dear Deputy Troy,

I refer to the above Parliamentary Question which has been referred by the Minister for Health to the Health Service Executive for direct response.

I have examined the matter and the following outlines the position.

The Assisted Decision-Making (Capacity) Act 2015 is reforming, human rights compliant law which relates to persons who require or may require assistance in exercising their decision-making capacity, whether immediately or in the future.

The HSE is undertaking a programme of work to enable compliance with this reforming Act and to ensure the rights of people enshrined by the new law will be protected and respected.

The Assisted Decision-Making (Capacity) Act 2015 will replace the existing wardship jurisdiction with a system which moves away from a blanket approach to decision making capacity to one which

recognises the fluctuating nature of capacity through the provision of a tiered system of decision-making supports

The HSE will work within the new mechanisms determined by the Decision Support Service, the new body established to oversee the Assisted Decision Making (Capacity) Act 2015, the provisions of the Assisted Decision-Making (Capacity) (Amendment) Bill 2022 which is currently progressing through the Houses of the Oireachtas, and the determinations of the Court wherein they relate to future placements of persons with extreme complex needs whose care is being provided for outside of the State.

Separately, work on progressing legislative provisions for protection of liberty safeguards is ongoing in the Department of Health. A number of complex legal and policy issues which had arisen during the drafting process remain to be resolved, but are being given active consideration. The HSE will input as necessary to the Department's work on this matter.

If you require any further information or clarification please do contact us.

Yours sincerely,

A handwritten signature in blue ink that reads "Caoimhe Gleeson". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Caoimhe Gleeson
General Manager
HSE National Office for Human Rights and Equality Policy
HSE Strategy and Research